IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1157 OF 2005

Shri. Kamlesh Kanucharan Mishra ...Petitioner

V/s.

The State of Maharashtra ...Respondent

Shri. C.R.Sonawane for the Petitioner.
Shri. K.V. Saste A.P.P. for the Respondent.

CORAM: A.S. OKA, J.
DATED: JUNE 13, 2005.

P.C.:

1. Heard Counsel appearing for the parties. The challenge by the Petitioner is to that part of the Order dated 16th April, 2005 passed by the learned Sessions Judge by which the Petitioner was directed to deposit his passport to police and he was directed not to leave jurisdiction of the Trial Court without prior permission.

2. On 21st April, 2005 this Court granted ad-interim relief in terms of prayer clause ‘b’ which reads thus:

(b) pending the hearing and final disposal of this Criminal Writ Petition, the said portion of the order dated 16.4.2005, passed by the learned Sessions Judge for Greater Mumbai, in Anticipatory Bail Application No.577 of 2005 contained in paragraph 3, i.e."Applicant is directed to deposit his passport to the Police and should not leave the jurisdiction of

Trial Court without prior permission", may please be stayed, in the interest of justice:

3. In view of the Order of this Court the direction given by the learned Sessions Judge directing the Petitioner not to leave the jurisdiction of the Trial Court without permission was stayed.

4. The learned Advocate for the Petitioner states that after ad-interim order was passed, the Petitioner has left India and at present he is in Saudi Arabia. He has placed on record a sworn undertaking of the Petitioner which was sworn before he left country. The undertaking is taken on record and marked ‘X’ for identification. In said undertaking the Petitioner has stated thus:

"I undertake to attend Trial Court at Andheri, Mumbai, when the trial of the Criminal Case arising out of C.R.No.130 of 2004 dated 24.05.2004 for the offences punishable under Sections 498-A and 406 read with section 34 of the Indian Penal Code, shall commence and I shall attend the Trial Court till the said Trial concludes".

5. I have heard learned A.P.P. for the State who has opposed this Petition.

6. In view of ad-interim order passed by this Court the Applicant has already left India and now he is in

Saudi Arabia. However, the Petitioner has tendered an undertaking to attend the Trial Court till the trial concludes. The said undertaking is accepted.

7. In view of the said undertaking, now the Petitioner will have to attend the Trial Court as and when the case is fixed before the Trial Court for hearing.

8. In view of this position order directing the Petitioner to deposit the passport to the police will have to be set aside. However, as and when the Petitioner comes back to India for attending the case in the Trial Court he will not be permitted to leave the country without permission of the concerned Court.

9. Hence, Petition is disposed of by passing the following order:

: O R D E R :

i) The undertaking dated 26th April, 2005 of the Petitioner is accepted.

ii) In view of the undertaking and in view of the ad-interim order passed by this Court earlier, the direction contained in Order dated 16th April, 2005

directing the Petitioner to deposit his passport with the Police is set aside.

iii) As and when the Petitioner comes back to India, the Applicant will not be permitted to leave India without obtaining the permission of the Court which has granted anticipatory bail in favour of the Petitioner.

iv) Petition is disposed of in above terms.

v) Parties to act upon an authenticated copy of this order.

JUDGE